

Article - State Finance and Procurement

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§5-7B-05.

(a) (1) The State may provide funding for a growth-related project not in a priority funding area if:

(i) the Board of Public Works determines that extraordinary circumstances exist in accordance with the requirements of paragraph (2) of this subsection; or

(ii) the Board of Public Works approves the project as a transportation project that meets the requirements of paragraph (3) of this subsection.

(2) In order to determine that extraordinary circumstances exist under paragraph (1) of this subsection, the Board shall determine by a majority vote that:

(i) the failure to fund the project in question creates an extreme inequity, hardship, or disadvantage that clearly outweighs the benefits from locating a project in a priority funding area; and

(ii) there is no reasonable alternative for the project in a priority funding area in another location within the county or an adjacent county.

(3) The Board of Public Works may approve a transportation project under paragraph (1)(ii) of this subsection if the transportation project:

(i) maintains the existing transportation system, if the Department of Transportation and the Department of Planning determine the project does not serve to significantly increase highway capacity;

(ii) serves to connect priority funding areas, if:

1. the Department of Transportation and the Department of Planning determine that adequate access control or other measures are in place to:

A. prevent development that is inconsistent with § 5-7A-01(1), (2), and (3) of this title; and

B. maintain the viability of the project while concomitantly constraining development which potentially detracts from main street business areas; and

2. the Department of Transportation and the Department of Planning have first determined whether alternative transportation modes, such as mass transit and transportation demand management, provide a reasonable alternative to the project and that no reasonable alternative exists;

(iii) has the sole purpose of providing control of access by the Department of Transportation along an existing highway corridor; or

(iv) due to its operational or physical characteristics, must be located away from other development.

(b) (1) A request for approval by the Board under subsection (a) of this section may be made at the request of the governing body of the local jurisdiction in which the project is located or the Secretary with approval authority over the project.

(2) When making a request to the Board of Public Works, the applicant shall:

(i) identify the extraordinary circumstances that require State funds for the project; and

(ii) demonstrate that no feasible alternatives exist to making an exception to the requirements of this subtitle.

(3) The Board of Public Works, at its discretion, may require remedial actions to mitigate any negative impacts of the proposed project.

(c) (1) When a request is made to the Board of Public Works for an exception under this section, the Board of Public Works may request from the Department of Planning an advisory opinion on the request for the exception.

(2) Upon receiving a request for an advisory opinion under this subsection, the Department, if requested by a member of the public, shall hold a public meeting to gather information relevant to the advisory opinion.

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